



Paper No. 9

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*Mailed  
3/27/03*

In re Application of: Ehnebuske et al. )  
Application No.: 09/204,973 )  
Filed: December 3, 1998 )  
For: METHOD AND APPARATUS FOR )  
APPLYING BUSINESS RULES IN )  
AN OBJECT MODEL DRIVEN )  
CONTEXT )

**DECISION ON PETITION  
UNDER 37 C.F.R. § 1.181 TO  
WITHDRAW HOLDING OF  
ABANDONMENT**

This is a decision in response to the petition under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment, filed February 4, 2003, in response to a Notice of Abandonment.

This application was held abandoned for failure to file a timely response to the Office Action (final rejection) of mail date May 7, 2002. A Notice of Abandonment was mailed on December 16, 2002.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office presumes that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received.

The relevant portion of MPEP § 711.03(c) states:

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

In support of the petition, the practitioner states that the Final Office Action indicated, as mailed on May 7, 2002 of the above application was never received by applicants and attest to the fact that a search of the file jacket and docket records substantiates that the Final Office Action was never received. Petitioner supplies a copy of the docket record on which all events docketed in the application from the mail date of the Final Office Action (dated May 7, 2002), and states that this is where the record would have been entered in the firm's docketing system had the Office action been received and docketed.

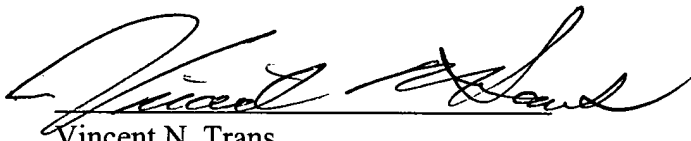
The docket record attached to the February 4, 2003 petition did not show an entry to indicate the receipt of the Final Office Action that was mailed on May 7, 2002. Additionally, the petitioner have filed an affidavit indicating that the docketing system the firm uses does not have a specific place to enter a notice of abandonment. An index of the case file attached to the petition includes an entry for the receipt of the notice of abandonment and a copy of Final Office Action(see item No. 10).

Petitioner's submission meets the criteria set forth in MPEP § 711.03(c)(II) to withdraw holding of abandonment based on failure to receive office action. Therefore, the petition is **GRANTED**. The Notice of Abandonment is withdrawn.

The application file is being forwarded to the Technology Center support staff for REMAILING of the Final office action. The three months statutory period will be restarted to run from the mail date of the newly supplied Final office action.

It is noted that the filing of Notice of Appeal is premature at this stage and therefore not entered. Applicant can refile Notice of Appeal in response to the new Final office action.

Inquiries with respect to this decision may be directed to Vincent N. Trans at (703) 305-9750.



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